IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 20708 of 2001

Between:

M/s. Vanee Ganesh Pharmaceuticals, 11-33-18B,
Thatakulavari Street, VIJAYAWADA - 520 001.
Rep. by its Proprietor Mr. A.V. Suresh Babu
S/o. Siva Koteswara Rao, Aged about 29 years.

..... PETITIONER

AND

The Deputy Commercial Tax Officer Park Road Circle,
VIJAYAWADA.

..RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of Writ of Mandamus declaring the action of the Respondent in collecting un-assessed tax of Rs.2,85,045/- as well as compounding fees of Rs.5,70,090/- vide money receipt No. 4867531 on 18.09.2001 by the Deputy Commercial Tax officer, Park road circle, Vijayawada as without authority of law, without jurisdiction, unlawful, improper and ultra vires the provisions of the A.P. Genral Sales Tax Act, 1957 as also contrary to the judgment of this Hon'ble Court in 110 STC Pg.73, 190 STC Pg.52 and 33 APSTJ Pg. 41 and consequently direct the refund/adjustment of the unassessed tax of Rs.2,85,045/- collected through Cheque No. 682516 dated 18.09.2001 signed by proprietor of the petitioner firm for the period before closure of the business in April, 2001 and compounding

fees Rs.5,70,090/- collected on 18.09.2001 with an interest @ 12% from the date of collection till its refund.

Counsel for the Petitioner: MR.M.V.K.MOORTHY

Counsel for the Respondents: THE GP FOR COMMERCIAL TAX

The Court made the following:

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ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY*** v . ***COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD***.

Following the said decision, this writ petition is also disposed of in terms of the

said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

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B. SUDERSHAN REDDY, J.

Date: 27/04/2005

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C.V. RAMULU, J.

GS/GRR

To

1. The Deputy Commercial Tax Officer Park Road Circle, Vijayawada.

2. Two CCs to the G.P. for Commercial Tax, High Court of A.P., Hyderabad (OUT)

3. Two CD Copies.